

Message Text

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ACTION L-03

INFO OCT-01 EUR-25 IO-15 ISO-00 AF-10 ARA-16 EA-11 NEA-10

RSC-01 CIAE-00 DODE-00 PM-07 H-03 INR-10 NSAE-00

NSC-10 PA-03 PRS-01 SPC-03 SS-15 USIA-15 ACDA-19 SY-10

USSS-00 CPR-02 DRC-01 /191 W
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P 040406Z OCT 73

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 9835

INFO AMEMBASSY THE HAGUE PRIORITY

AMEMBASSY PARIS PRIORITY

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E.O. 11652: N/A

TAGS: PINS, UNGA

SUBJ: UNGA -- LEGAL COMMITTEE -- PROTECTION OF DIPLOMATS

1. WESTERN GROUP HAS BEEN WORKING ON CONSOLIDATING POSITIONS ON WHICH CRIMES AGAINST DIPLOMATS SHOULD BE COVERED IN NEW CONVENTION ON PROTECTION OF DIPLOMATS, BEING DRAFTED IN UNGA LEGAL COMMITTEE. GROUP HAS AGREED THAT ALLEGED OFFENDER MUST KNOW OR HAVE REASON TO KNOW OF THE OFFICIAL STATUS OF VICTIM. FRANCE (JOUANNEAU) AND NETHERLANDS (WEHRY) PRESSING FOR INCLUSION OF ADDITIONAL REQUIREMENT THAT CRIME BE COMMITTED BECAUSE VICTIM IS A DIPLOMAT (I.E., "MOTIVE"). USG AND MANY OTHERS IN GROUP OPPOSE INCLUSION OF MOTIVE BECAUSE: (A) IT CREATES DIFFICULTIES OF PROFF; (B) IT WEAKENS PREVENTIVE SCHEME OF CONVENTION; (C) IT CREATES LARGE LOOPHOLE FOR ANY STATE TO AVOID OBLIGATIONS OF CONVENTION; AND (D) PERHAPS MOST IMPORTANT, IT RAISES QUESTION OF MOTIVE IN LEGAL COMMITTEE AND INEVITABLY WILL LEAD TO DISCUSSION OF MOTIVES SUCH AS NATIONAL LIBERATION. AFRICANS AND ARABS WILL SURELY INSIST THAT IF DESIRE FOR MONEY OR IF COMMITTING CRIMES OF PASSION

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ARE MOTIVES WHICH SHOULD NOT BE COVERED, THEN ANYTHING

CONNECTED WITH NATIONAL LIBERATION MOVEMENTS SHOULD NOT BE COVERED. EFFORT WILL BE DOOMED TO FAILURE, SAME FATE AS EXPERIENCED BY TERRORISM COMMITTEE.

2. NEXT CONSIDERATION OF THIS ISSUE IN GROUP WILL BE P.M. OF OCT 5 NEW YORK TIME.

3. FOR THE HAGUE: AT COUNCIL OF EUROPE MEETING SEPTEMBER 17-18, DUTCH DEPUTY LEGAL ADVISER VAN SANTEN STRONGLY OPPOSED INCLUSION OF MOTIVE REQUIREMENT FOR SAME REASONS GIVEN IN PARA 1 ABOVE (SEE PARA6(C) OF USUN 3318). WE RECOMMEND THAT AMEMBASSY CONTACT VAN SANTEN WITH VIEW TO GON SENDING CLEAR INSTRUCTIONS TO NETHERLANDS UNGA DEL NOT TO SEEK INSERTION OF NOTION OF MOTIVE IN ANY FORM.

4. FOR PARIS: WHILE WE KNOW GOF IS SKEPTICAL ABOUT VALUE OF A CONVENTION ON PROTECTION OF DIPLOMATS, USG HAS BEEN ASSURED AT HIGH LEVEL THAT GOF WOULD NOT PREVENT ADOPTION OF EFFECTIVE CONVENTION. INTRODUCTION IN ANY FOR OF CONCEPT OF MOTIVE WILL RESULT IN EITHER NO CONVENTION OR AN INEFFECTIVE ONE. WE RECOMMEND THAT AMEMBASSY REMIND GOF THAT IT AGREED NOT TO INTERPOSE SERIOUS OBJECTIONS AND TO REQUEST GOF TO SEND APPROPRIATE INSTRUCTIONS TO FRENCH UNGA DEL.

5. FYI: FRG AND JAPAN, WHO WERE KEY PROPONENTS OF INCLUDING MOTIVE IN CONVENTION PREVIOUSLY, HAVE BEEN DISSUADED FROM INSISTING ON THIS FOR REASONS CONTAINED PARA 1 ABOVE AND ARE SATISFIED WITH "KNOWLEDGE" REQUIREMENT. FACT THAT TEXT WESTERN GROUP NOW SUPPORTING CLEARLY DIRECTED ONLY AT SERIOUS ATTACKS ON DIPLOMATS HAS ALSO INFLUENCED THEM AND MIGHT BE ADDED POINT TO MAKE IN HAGUE AND PARIS. END FYI.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, COMMITTEE MEETINGS, POLICE PROTECTION RIGHTS
Control Number: n/a
Copy: SINGLE
Draft Date: 04 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: thigpegh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973USUNN03609
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731049/aaaabjzx.tel
Line Count: 94
Locator: TEXT ON-LINE
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: thigpegh
Review Comment: n/a
Review Content Flags:
Review Date: 04 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04-Oct-2001 by smithrj>; APPROVED <24-Oct-2001 by thigpegh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UNGA -- LEGAL COMMITTEE -- PROTECTION OF DIPLOMATS
TAGS: PINS, UNGA
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005